

HOUSE BILL NO. 471

INTRODUCED BY K. PETERSON, BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE PRISON INDUSTRIES ~~MANUFACTURED~~
FACTORY-BUILT MODULAR HOME PROGRAM; ALLOWING THE DEPARTMENT OF CORRECTIONS'
PRISON INDUSTRIES PROGRAM TO PROVIDE FOR THE CONSTRUCTION OF ~~MANUFACTURED~~
FACTORY-BUILT MODULAR HOUSING; REQUIRING THAT 20 PERCENT OF AN INMATE'S WAGES
EARNED IN THIS PROGRAM BE COLLECTED FOR PURPOSES OF RESTITUTION; PROVIDING FOR THE
PURCHASE OF THE HOMES THROUGH THE BOARD OF HOUSING'S LOAN PROGRAM; DIRECTING
LOCAL GOVERNMENTS TO WORK WITH PRISON INDUSTRIES AND THE BOARD OF HOUSING TO
IDENTIFY VACANT LOTS THAT MIGHT BE DONATED TO THE PROGRAM; ALLOWING THE BOARD OF
~~HOUSING TO EXTEND A LINE OF CREDIT~~ INVESTMENTS TO MAKE AN INTERCAP LOAN, NOT TO
EXCEED \$2 MILLION, TO THE DEPARTMENT OF CORRECTIONS FOR THE PURPOSES OF PURCHASING
EQUIPMENT AND HIRING STAFF; PROVIDING THAT PROCEEDS FROM THE SALE OF THE HOMES MAY
BE USED FOR CONTINUING THE PROGRAM ONCE THE ~~LINE OF CREDIT~~ LOAN HAS BEEN REPAID;
APPROPRIATING THE ~~LINE OF CREDIT~~ LOAN PROCEEDS TO THE DEPARTMENT OF CORRECTIONS;
AMENDING SECTIONS 53-30-132 AND 90-6-104, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Prison industries ~~manufactured~~ FACTORY-BUILT MODULAR home program.** (1) There is a prison industries ~~manufactured~~ FACTORY-BUILT MODULAR home program as authorized under 53-30-132.

(2) Homes constructed by inmates under this program may be purchased using the board of housing's loan program established under 90-6-134.

(3) Local governments shall work in cooperation with prison industries and the board of housing to donate vacant lots owned by the local government so that they may be transferred to eligible recipients, converting nontaxable property to taxable property.

(4) Proceeds from the sale of ~~manufactured~~ FACTORY-BUILT MODULAR homes under this program must be used to reimburse the board of housing for ~~any line of credit extended~~ INVESTMENTS FOR ANY

1 INTERCAP LOAN MADE as part of the program, and the remaining proceeds must be used to provide continued
2 support for the program.

3

4 **Section 2.** Section 53-30-132, MCA, is amended to read:

5 **"53-30-132. Inmate participation and status in prison work programs -- prison industries and**
6 **vocational training program -- wages and benefits.** (1) The department of corrections may:

7 (a) establish prison industries that will result in the production or manufacture of products and the
8 rendering of services that may be needed by any department or agency of the state or any political
9 subdivision of the state, by any agency of the federal government, by any other states or their political
10 subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of inmates in
11 institutions;

12 (b) obtain federal certification of specific prison industries programs in order to gain access to
13 interstate markets for prison industries products;

14 (c) contract with private industry for the sale of goods or components manufactured or produced
15 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
16 programs;

17 (d) print catalogs describing goods manufactured or produced by prison industries and distribute
18 the catalogs;

19 (e) fix the sale price for goods produced or manufactured by prison industries. Prices may not
20 exceed prices existing in the open market for goods of comparable quality.

21 (f) require a correctional facility to purchase needed goods from other correctional facilities;

22 (g) provide for the repair and maintenance of property and equipment of institutions by inmates;

23 (h) provide for the removal of graffiti from property and equipment of institutions and the removal
24 of litter from the property of institutions, public roads, and public parks by inmates;

25 (i) provide for construction projects, up to the aggregate sum of \$200,000 for each project,
26 performed by inmates. The department of administration may:

27 (i) exempt projects authorized by this subsection from the provisions of Title 18, chapter 2,
28 relating to construction, public bidding, bonding, or contracts; and

29 (ii) exempt inmates who provide labor for those projects from the labor and wage requirements of
30 Title 18, chapter 2, part 4. Inmates providing labor for projects under this subsection must be paid a rate

1 of pay as provided in subsection (5).

2 (j) provide for the repair and maintenance by prison industries of furniture and equipment of any
3 state agency;

4 (k) provide for the manufacture by prison industries of motor vehicle license plates and other
5 related articles;

6 (l) sell manufactured or agricultural products and livestock on the open market;

7 (m) provide for the manufacture by prison industries of highway, road, and street marking signs
8 for the use of the state or any of its political subdivisions, except when the manufacture of the signs is
9 in violation of a collective bargaining contract;

10 (n) provide for the construction of ~~manufactured~~ FACTORY-BUILT MODULAR homes for use in the
11 prison industries ~~manufactured~~ FACTORY-BUILT MODULAR home program established in [section 1]±. HOMES
12 BUILT BY THE PROGRAM MUST BE CONSTRUCTED IN A MANNER THAT WILL ACHIEVE ENERGY CONSERVATION GOALS SIMILAR
13 TO THE GOALS ESTABLISHED FOR THE WEATHERIZATION AND ENERGY ASSISTANCE PROGRAMS DESCRIBED IN 90-4-201.

14 ~~(n)(o)~~ pay an inmate from receipts from the sale of products produced or manufactured or services
15 rendered in a program in which the inmate is working;

16 ~~(o)(p)~~ except as provided in subsection (9), collect 15% of the net wages paid to an inmate
17 employed in a federally certified prison industries program for deposit in the Montana crime victims
18 compensation and assistance account established under 53-9-109; and

19 ~~(p)(q)~~ collect from an inmate employed in a federally certified prison industries program charges
20 for room and board consistent with charges established by the director for inmates assigned to prerelease
21 centers.

22 (2) Except as provided in subsection (3), furniture made in the prison may be purchased by state
23 agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made
24 furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for
25 sale to international markets.

26 (3) Any state institution, facility, or program operated by the department of corrections may
27 purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter
28 4.

29 (4) While engaged in on-the-job training and production, inmates not employed in a federally
30 certified prison industries program may be paid a wage in accordance with subsection (5). Inmates

employed in a federally certified prison industries program must be paid as provided in subsection (5).

(5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) The maximum rate of pay must be determined by the appropriation established for the program, except that an inmate employed in a federally certified prison industries program must be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the prison industries program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries training program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and benefits as provided in 39-71-744.

(8) Able-bodied persons committed to a state prison as adult offenders must be required to perform work as provided for by the department of corrections, including the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(9) The department of corrections shall collect 20% of the net wages paid to an inmate who is participating in the prison industries manufactured FACTORY-BUILT MODULAR home program for deposit in the state general fund to be used for the Montana crime victims compensation and assistance program established under Title 53, chapter 9, part 1."

1 **Section 3.** Section 90-6-104, MCA, is amended to read:

2 **"90-6-104. General powers of the board.** (1) The board may:

3 ~~(1)~~(a) sue and be sued;

4 ~~(2)~~(b) have a seal;

5 ~~(3)~~(c) adopt all procedural and substantive rules necessary for the administration of this part,
6 including rules concerning its mortgage, construction, and temporary lending programs;

7 ~~(4)~~(d) make contracts, agreements, and other instruments necessary or convenient for the exercise
8 of its powers under this part;

9 ~~(5)~~(e) enter into agreements or other transactions with any federal, state, or local governmental
10 agency, any persons, and any domestic or foreign partnership, corporation, association, or organization
11 in carrying out this part;

12 ~~(6)~~(f) enter into agreements under its rules with sponsors, mortgagors, or lending institutions for
13 the purpose of regulating the analysis, planning, development, and management of housing developments
14 financed in whole or in part by the proceeds of its loans or securities and mortgage purchase programs;

15 ~~(7)~~(g) enter into agreements or other transactions with, and accept grants and the cooperation
16 of, any governmental agency in furtherance of this part, including but not limited to the development,
17 leasing, maintenance, operation, and financing of any housing development;

18 ~~(8)~~(h) accept services, appropriations, gifts, grants, bequests, and devises and ~~utilize~~ use or
19 dispose of them in carrying out this part;

20 ~~(9)~~(i) acquire real or personal property or any right, interest, or easement ~~therein~~ in real or personal
21 property by gift, purchase, transfer, foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber,
22 mortgage, or otherwise dispose ~~thereof~~ of real or personal property; hold, sell, assign, or otherwise dispose
23 of any mortgage or loan owned by it or in its control or custody; release or relinquish any right, title, claim,
24 interest, easement, or demand, however acquired, including any equity or right of redemption; do any of
25 the foregoing by public or private sale, with or without public bidding; commence any action to protect
26 or enforce any right conferred upon it by any law, mortgage, contract, or other agreement; bid for and
27 purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure;
28 and operate, manage, lease, dispose of, and otherwise deal with ~~such~~ property in any manner necessary
29 or desirable to protect its interests and the holders of its bonds or notes and consistent with any
30 agreement with ~~such~~ those holders;

~~(10)~~(j) service and contract and pay for the servicing of loans;

~~(11)~~(k) provide general technical services in the analysis, planning, design, processing, construction, rehabilitation, and management of housing developments for persons and families of lower income ~~where~~ when these services are not otherwise available;

~~(12)~~(l) provide general consultative services to housing developments for persons and families of lower income and the residents ~~thereof~~ of housing developments with respect to counseling and training in management, home ownership, and maintenance ~~where~~ when these services are not otherwise available;

~~(13)~~(m) invest any funds not required for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except all investment income from funds of the board less the cost for investment as prescribed by law must be deposited in the housing authority enterprise fund;

~~(14)~~(n) sell its loans or securities to the federal national mortgage association or any other agency or instrumentality of the United States and invest in the capital stock issued by the association or other agency or instrumentality to the extent, if any, required as a condition of the sale;

~~(15)~~(o) consent, whenever it considers it necessary or desirable in fulfilling its purposes, to the modification of the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and noteholders;

~~(16)~~(p) collect reasonable interest, fees, and charges in connection with making and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness and in connection with providing technical, consultative, and project assistance services. Interest fees and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

~~(17)~~(q) procure insurance against any loss in connection with its mortgages and mortgage loans and other assets or property in amounts and from insurers as the board considers desirable or necessary;

~~(18)~~(r) act as agent for governmental agencies concerning acquisition, construction, leasing, operation, or management of a housing development;

~~(19)~~(s) issue notes and bonds and replace lost, destroyed, or mutilated notes and bonds; ~~and~~ AND

(20)(t) develop special programs for housing developments for veterans of the armed forces of the United States who are unable to acquire safe and sanitary housing through lending institutions by conventional means; ~~and~~

~~—— (u) establish a line of credit, from existing funds, of up to \$2 million to be appropriated to and used by the department of corrections for the prison industries manufactured home program provided for in [section 1].~~

(2) The board shall:

~~—— (a) work with the prison industries program and local governments for the purposes of the prison industries manufactured FACTORY-BUILT MODULAR home program established in [section 1]; and~~

~~—— (b) require repayment of the line of credit from the proceeds of the sale of the manufactured homes."~~

NEW SECTION. Section 4. Line of credit LOAN to department for prison industries manufactured FACTORY-BUILT MODULAR home program -- expenditures allowed -- appropriation. (1) ~~The line of credit extended~~ BOARD OF INVESTMENTS MAY MAKE AN INTERCAP LOAN TO THE DEPARTMENT OF CORRECTIONS IN AN AMOUNT THAT DOES NOT EXCEED \$2 MILLION. THE AMOUNT OF THE LOAN MADE to the department of corrections ~~by the board of housing under 90-6-104 for the prison industries manufactured~~ FACTORY-BUILT MODULAR home program is appropriated to the department.

(2) The department of corrections may use the ~~line of credit~~ LOAN PROCEEDS to:

(a) purchase materials for construction of the homes;

(b) employ licensed electricians, plumbers, carpenters, and other skilled workers who may be necessary to assist inmates who are participating in the program in all aspects of home construction;

(c) hire correctional officers and other prison staff necessary to maintain security;

(d) purchase equipment necessary for home construction; and

(e) offset any other expenses that the department may incur as a result of implementing and operating the program.

(3) Once the ~~line of credit~~ LOAN has been repaid to the board of ~~housing~~ INVESTMENTS, the department of corrections may use the proceeds from the sale of the ~~manufactured~~ FACTORY-BUILT MODULAR homes for the purposes provided in subsections (2)(a) through (2)(e).

1 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 4] are intended to be codified
2 as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply
3 to [sections 1 and 4].

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5 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

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